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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,457	03/09/2004	Michael Josenhans	473-010357-US (C01)	2406
2512	7590	02/24/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			RAYYAN, SUSAN F	
			ART UNIT	PAPER NUMBER
			2167	
DATE MAILED: 02/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/796,457

**Applicant(s)**

JOSENHANS, MICHAEL

**Examiner**

Susan F. Rayyan

**Art Unit**

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/867,738.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 19-37 are pending.
2. All references in the Information Disclosure Statement filed on March 9, 2004 have been considered except for the foreign patent documents as neither translations nor concise explanations as to the relevance of the content of the information were provided.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. **Claims 19-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,745,182. Although the conflicting claims are not identical, they are not patentably distinct from each other.**

The following table shows the claims in '457 that are rejected by corresponding claims in '182"

Art Unit: 2167

Claims Comparison Table

'457	'182
Claims 19	1
20	1
21	2
22	3
23	4
24	5
25	6
26	7
27	8
28	9
29	10
30	11
31	12
32	13
33	14
34	15
35	16
36	17
37	18

Art Unit: 2167

3. Certain limitations including, displaying "the predecessor or a plurality of predecessors", found in claims 19 and 28 of pending application '457 are not found in claims 1, 9 of U.S. Patent No. 6,745,182. Displaying the predecessor or plurality of predecessors, in a manner similar to the displaying of the successor or the plurality of successors, would have been obvious.

### **Drawings**

5. The drawing is objected to because it fails to show necessary textual label of features or symbols in Figs. 1,3 as described in the specification. For example, placing a label, "user interface", with elements 28 of Fig. 3, would give the viewer necessary detail to fully understand this element at a glance. A descriptive textual label for each numbered element in these figures would be needed to fully and better understand these figures without substantial analysis of the detailed specification. Any structural detail that is of sufficient importance to be described should be shown in the drawing. Optionally, applicant may wish to include a table next to the present figure to fulfill this requirement. See 37 CFR 1.83. 37 CFR 1.84(n)(o) is recited below:

"(n) Symbols. Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.

(o) Legends. Suitable descriptive legends may be used, or may be required by the Examiner, where necessary for understanding of the drawing, subject to approval by the Office. They should contain as few words as possible."

### **Claim Objections**

Art Unit: 2167

6. Claim 20 is objected to because of the following informalities: claim 20 depends from canceled claim 1. Appropriate correction is required.

7. Claim 28 is objected to because of the following informalities: preamble missing the phrase "in which:" (as is a manner similar to claim 19). Appropriate correction is required.


### ***Conclusion***


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-4117. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for Official communications, (703) 746-7238 for After Final communications and (703) 746-7240 for Status inquiries and draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Susan Rayyan

  
February 18, 2005

  
Primary Examiner